

REMARKS/ARGUMENTS

Claims 1-72 are pending.

Claims 1, 4-7, 9, 10, 14-17, 27, 28, 31-34, 36-38, and 42-45 are rejected under 35 U.S.C. § 102(b) as being anticipated by Fukasawa et al., U.S. Patent No. 5,533,012.

Claims 8, 18, 19, 23-26, 35, 46-48, and 51-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukasawa et al.

Claims 2, 3, 11-13, 20, 21, 29, 30, 39-41, 49, and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fukasawa et al. in view of Mahany.

Claims 56, 57, 60-66, and 69-72 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fukasawa et al. in view of Wildauer et al., U.S. Patent No. 5,903,555.

Claims 58, 59, 67 and 68 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fukasawa et al. in view of Wildauer et al., and in further view of Mahany.

A telephonic interview was conducted with the Examiner on October 27, 2004, for which Applicant's counsel is appreciative. During the interview counsel was given an opportunity to discuss the grounds for the Section 103 rejection of independent claims 19 and 47. The Examiner indicated that the arguments made by counsel, and set forth below, appear to overcome the claim 19 and 47 rejections, but that further consideration would be needed.

In addition, counsel explained that the remaining independent claims also recite subject matter similar to the subject matter recited in independent claims 19 or 47. It was suggested that the remaining independent claims might be amended to clarify the language.

Section 103 rejection of claims 19 and 47

An aspect of the present invention recited in claims 19 and 47 as previously presented is "providing an identical first spreading code in each of the transmitters ... wherein each transmitter transmits its spread signal to the base station asynchronously with respect to other transmitters." *Claim 19*. The spread signal from each transmitter is produced by spreading data to be transmitted using the "identical first spreading code."

It is correctly noted in the Office action that Fukasawa et al. do not disclose using an identical spreading code in each transmitter. *O.A., page 9*. However, the assertion was made that it would be a matter of design choice to use an identical spreading code in the same manner used to implement different spreading codes.

It is respectfully noted that if prior art techniques where transmitters have the "identical spreading code", the transmitters perform *synchronous* transmission; see, for example, U.S. Pat. No. 5,537,397 to Abramson (submitted in IDS filed with the instant application). Additional supporting references are submitted herewith in an accompanying information disclosure statement. The prior art teaches synchronized transmission among the transmitters where identical spreading codes used.

Fukasawa et al. disclose that their transmitters (mobile stations) are approximately orthogonal, i.e., they use different codes, and the symbol boundaries are not synchronized (i.e., asynchronous). *Col. 8, lines 46 - 57*. Thus, one of ordinary skill in the art would not modify Fukasawa et al., as a matter of design choice, to use a single spreading code in transmitters which transmit asynchronously. To do so would be contrary to conventional wisdom because, as mentioned above, in a system where the transmitters use the *same spreading code*, the transmitters coordinate the timing of their transmissions and thus their transmission are *synchronous*. It is earnestly submitted therefore that the modification proposed in the Office action would not be obvious.

Consequently, the Section 103 rejection of claims 19 and 47 is believed to be overcome. The respective dependent claims are believed to be allowable based on the allowability of the base claims.

Rejection of Independent claims 1, 9, 27, 36, 56, and 65

It is earnestly submitted that independent claims 1, 9, 27, 36, 56, and 65 as previously presented recite the foregoing discussed aspect of the present invention. Nonetheless, the claims have been amended to more clearly distinguish the prior art. As amended, these claims are believed to overcome the cited art.

Appl. No. 09/531,996
Amdt. sent November 1, 2004
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group

PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



George B. F. Yee
Reg. No. 37,478

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
GBFY:cmm
60281462 v1